

# ***Truthfulness in Trademarks***

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The principle that trademarks must avoid deception is widely acknowledged, yet the precise role of truthfulness within U.S. trademark law remains ambiguous. This Article investigates whether trademark doctrine implicitly contains or should explicitly adopt a heightened truthfulness requirement. It identifies how existing legal frameworks address deception in narrow terms, primarily focusing on consumer confusion about product source rather than broader notions of honesty. Analyzing key doctrines such as the bars on deceptive and deceptively misdescriptive marks, likelihood of confusion tests, fair use defenses, and the prohibition of fraudulent registrations, the research demonstrates that trademark law selectively polices truthfulness, doing so primarily when consumer misunderstanding directly impacts purchasing decisions.

Drawing on interdisciplinary insights from philosophy, economics, and consumer psychology, this Article evaluates normative arguments for and against elevating the role of truth in trademark doctrine. From philosophical perspectives emphasizing honesty as an ethical marketplace duty, to economic theories linking truthful branding to market efficiency and reduced consumer search costs, the analysis underscores the benefits and challenges of a more robust truthfulness mandate. Consumer psychology further highlights how deceptive trademarks erode consumer trust, suggesting an economic and social imperative to reinforce truthful signaling in trademarks. Ultimately, the Article proposes measured reforms aimed at enhancing the law's commitment to truthfulness without compromising expressive branding freedom or introducing undue compliance burdens. Such reforms, it argues, would clarify market communication, reduce consumer harm, and strengthen the trust-based foundation upon which effective trademark systems rely.